

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

THOMAS DAVIS,

Petitioner,

v.

**Civil Action No. 1:07cv5
(Judge Keeley)**

WARDEN JOYCE FRANCIS,

Respondent.

ORDER

On December 11, 2007, the plaintiff filed a Motion for an Order Compelling Defendant to Fully Answer Interrogatories. By Report and Recommendation entered this same date, the undersigned has recommended that the plaintiff's complaint be dismissed. Accordingly the plaintiff's Motion (Doc. 38) is **DENIED** as moot without any finding whether it was otherwise appropriately filed.

IT IS SO ORDERED.

The Clerk of the Court is directed to mail a copy of this Order to the *pro se* plaintiff and any counsel of record.

DATED: December 14, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE